

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

TOM MARLIN, *et al.*,)
Plaintiffs,)
vs.) 1:11-cv-1137-JMS-TAB
Defendant.)

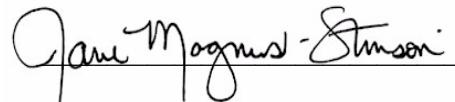
ORDER DISMISSING ACTION WITHOUT PREJUDICE

Plaintiffs Tom and Emily Marlin filed this action on August 18, 2011. [Dkt. 1.] Although they received an entry of default as to Defendant Powell Law Office, P.C. (“Powell”) in February 2012, [dkt. 15], they have made no attempt apparent on the docket to prosecute this action to judgment since that time. The Court issued an order for the Marlins to show cause by July 23, 2012, why it should not dismiss this action without prejudice for failure to prosecute. [Dkt. 16.] The Court specifically noted that failure to respond to its order would be deemed consent to a dismissal without prejudice. [Id.] The Marlins have not responded to the Court’s order.

“The authority of a court to dismiss *sua sponte* for lack of prosecution has generally been considered an ‘inherent power,’ governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.” *Link v. Wabash R. Co.*, 370 U.S. 626, 630-31 (1962). Moreover, “a party cannot decide for itself when it feels like pressing its action and when it feels like taking a break because trial judges have a responsibility to litigants to keep their court calendars as current as humanly possible.” *GCIU Employer Retirement Fund v. Chicago Tribune Co.*, 8 F.3d 1195, 1198-99 (7th Cir. 1993) (quotation omitted).

Because the Marlins have not shown cause why they have failed to prosecute this action, and their failure to respond to the Court's order is deemed a consent to dismissal without prejudice, the Court **DISMISSES** the Marlins' action against Powell **WITHOUT PREJUDICE**. Any previously ordered dates and deadlines are **VACATED** and any pending motions are **DENIED AS MOOT**. The Clerk is directed to **CLOSE** this case in the Court's electronic docketing system.

07/25/2012



Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana

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